IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 6417 of 1989

For Approval and Signature:

HONOURABLE MR.JUSTICE SHARAD D.DAVE

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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DILIPKUMAR HIMATLAL RAVAL - Petitioner(s)

Versus

STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :

MR PH PATHAK for Petitioner(s) : 1,
Ms.Rita Chandarana, AGP for Respondent(s) : 1 - 3.

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CORAM : HONOURABLE MR.JUSTICE SHARAD D.DAVE

Date : 27/01/2006

CAV JUDGMENT

By filing this petition under Article 226 of the Constitution of India, the petitioner has prayed for a declaration that the Circular dated 17.10.1988 is ultra

vires to Article 14 and 16 of the Constitution to the effect whereby it discriminates the daily wage employees in extending the benefits of time scale of pay and other allowances on the basis of length of service and also to set aside the same and further to declare that all the daily wage employees are entitled to get the time scale of pay and allowances of their cadre irrespective of their length of service.

2. Heard the learned advocates for the parties and perused the material placed on record.

3. In this petition, it is alleged by the petitioner that the petitioner is working since last many years but is deprived of the benefits and the status of the regular employees working under the respondents. It is further alleged that the petitioner is not granted the salary at par with the other employees working under the respondent. As stated above, the petitioner has also made prayer to quash and set aside the Government Resolution dated 17.10.1988 as ultra vires to Article 14 and 16 of the Constitution to the effect, whereby it discriminates the daily wage employees in extending the benefits of time scale of pay and other allowances.

4. Mr.Pathak, learned counsel appearing for the petitioner submitted that the Resolution dated 17.10.1988 was made applicable to the daily wagers who are working for maintenance and repairs of construction in various departments of the Government including the Animal Husbandry department and, therefore, the benefits should be extended to the petitioner also.

5. On the other hand, Ms.Rita Chandarana, learned AGP pointed out that the issue involved in this petition has been decided by the Full Bench of this Court in the case of Gujarat Forest Producers, Gatherers and Forest Workers Union V/s State of Gujarat, reported in 2004(2) GLH 302. It is required to be noted that in the said decision, this Court has held that the Government Resolution dated 17.10.1988 is applicable to the daily wagers who are engaged in the work of maintenance and repairs of construction in that department and not to the daily wagers engaged in other types of work in that department. Admittedly, the present petitioner is not working as a daily wager engaged in the work of maintenance and repairs of construction. Since the Government Resolution dated 17.10.1988 is not applicable to the case of the petitioner, none of the grievances raised in this petition can be considered. This petition,

therefore, having no substance is required to be dismissed.

6. In the result, this petition fails and the same is dismissed. Rule discharged.

(SHARAD D DAVE, J)

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